

ENTERED

March 19, 2019

David J. Bradley, Clerk

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION**

ERNESTO BENAVIDES, JR.,
Petitioner,

v.

LORIE DAVIS, Director, Texas
Department of Criminal Justice,
Correctional Institutions Division,
Respondent.

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Civil Action No. B-18-cv-00202

ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Before the Court is the "Magistrate Judge's Report and Recommendation" (hereafter "R&R") (Docket No. 8). Ernesto Benavides Jr. (hereafter "Petitioner") timely filed objections. *See* Docket No. 17. After a *de novo* review of the record, the Court **ADOPTS** the R&R in its entirety and **DISMISSES** the "Petition for Writ of Habeas Corpus by a Person in State Custody" (hereafter "Petition") (Docket No. 1), without prejudice and **DECLINES** to issue a certificate of appealability. Petitioner must first request authorization from the Fifth Circuit to file said Petition; upon receipt of said authorization, Petitioner may refile the Petition. Therefore, Petitioner's "Memorandum in Support of [Petition]" (Docket No. 2) and "Motion Requesting Leave to Proceed in Forma Pauperis" (Docket No. 3) are rendered **MOOT**. The Clerk is hereby **ORDERED** to close this case.

Signed on this 19th day of March, 2019.



Rolando Olvera
United States District Judge